

Chesapeake Bay Preservation Act Work Program

**Board of Supervisors
Public Hearing
May 24, 2010**





Background

- The Board of Supervisors has indicated that water quality protection is vital to the future of Loudoun County and have included it as one of the key components of their Strategic Plan.
- The Revised General Plan has included a policy indicating that the County will consider adoption of the environmental regulations of the Chesapeake Bay Preservation Act (CBPA) since 2001.
- Implementation of the CBPA and stream buffers was also included among the 90 watershed management recommendations outlined in the Comprehensive Watershed Management Plan (CWMP) completed in September 2008 by CH2MHill.



Background

- The water quality protection ordinance previously adopted pursuant to these policies (RSCOD) was invalidated by the Circuit Court of Loudoun County in 2004 due to a finding that the notice for the amendments (newspaper advertisement) was insufficient in its description of the proposed revisions.
- On December 1, 2008 and February 17, 2009 the Board of Supervisors conducted Committee of the Whole Meetings on Water Quality Protection to explore water quality protection options.
- The Board reviewed existing ordinances (FOD, SCVB), the previous RSCOD, and several CBPA options.



Process

- The Board approved the Chesapeake Bay Preservation Act Work Program on April 7, 2009.
- The Work Program encompasses amendments to the following documents:
 - The Codified Ordinances, including new Chapter 1222
 - The Zoning Ordinance
 - The Facilities Standards Manual
 - The Revised General Plan
 - The Countywide Transportation Plan



Process

- The Planning Commission hosted two Stakeholder Roundtable Meetings (May 20th & December 3rd, 2009) with the 13 Board-appointed agricultural, urban, and environmental stakeholders.
- January 28, 2010 Planning Commission Public Hearing, followed by ten Work Sessions.
- On May 12, 2010, the Planning Commission voted to forward the draft amendments to the Board with a recommendation of approval and to forward the Comprehensive Plan Amendment to a future Work Session for certification.



Chesapeake Bay Act

- The Chesapeake Bay Preservation Act (CBPA) is mandatory in 84 Tidewater localities, including Prince William and Fairfax.
- Localities outside of Tidewater may employ the criteria to protect local water quality and the Chesapeake Bay by reducing nonpoint source pollution (e.g., sediments and excess nutrients).
- March – July 2009, Countywide Stream Assessment found that statistically 78% of the stream miles are stressed or severely stressed, and would be considered impaired according to the Department of Environmental Quality's (DEQ) water quality standards.



Key Elements

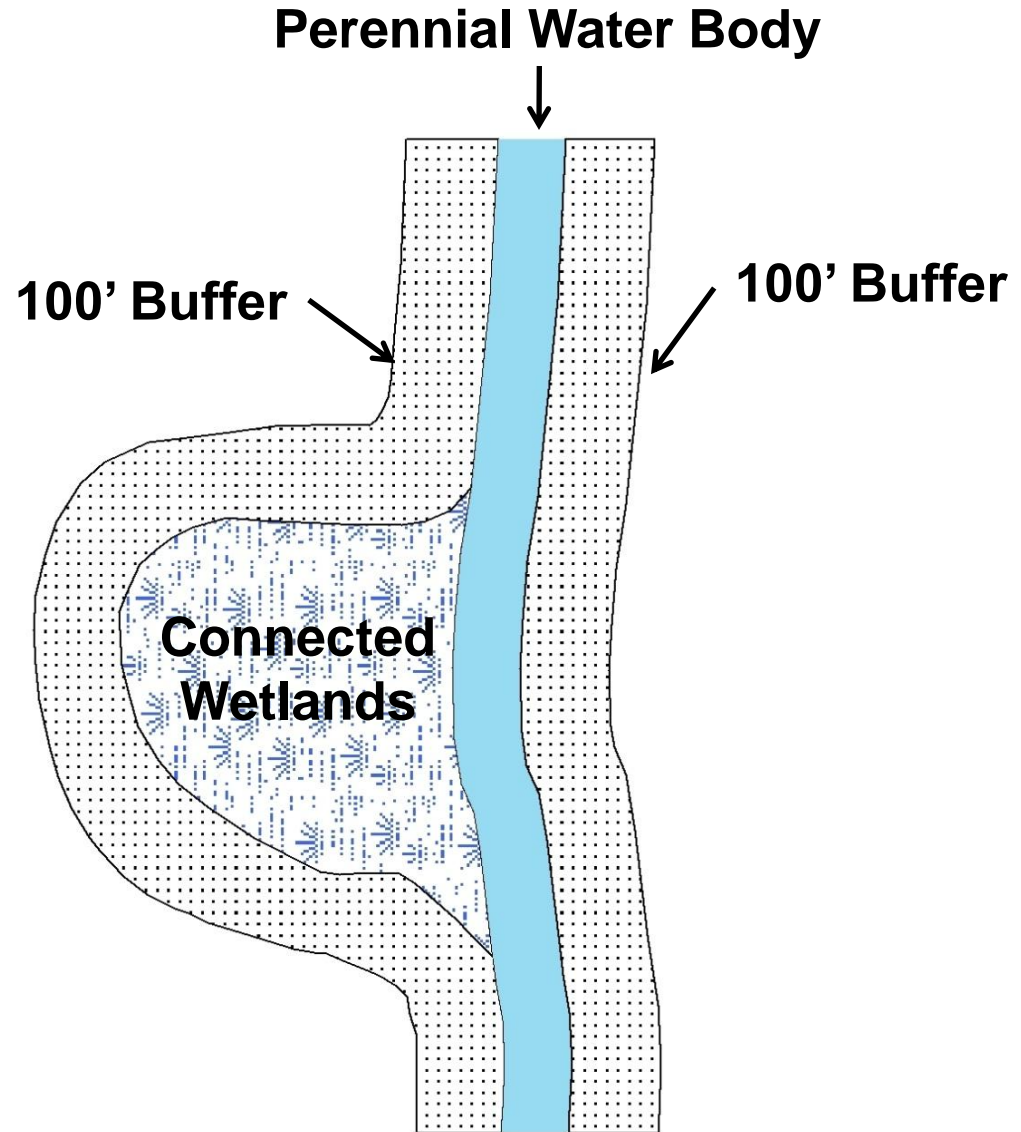
- Chesapeake Bay Preservation Areas:
 - **Resource Protection Area (RPA):**
 - *A 100-foot buffer located adjacent to and landward of perennial water bodies and connected wetlands, and*
 - *Wetlands connected to perennial water bodies.*
 - The RPA has an intrinsic water quality value and is sensitive to impacts that may cause degradation of state waters.
 - The 100-foot buffer achieves a 75% reduction of sediment and a 40% reduction of nutrients.



Key Elements

- Chesapeake Bay Preservation Areas:
 - **Resource Management Area (RMA):**
All land outside the RPA.
 - The RMA consists of lands outside the RPA that, if improperly used or developed, have the potential to cause significant water quality degradation or to diminish the functional value of the RPA.

Resource Protection Area (RPA)





Resource Protection Area (RPA)

- Development within the RPA is limited due to the fact that the water quality functions of the RPA buffer are directly related to the presence of filtering vegetation that retards runoff, prevents erosion, and filters nonpoint source pollution.
- Disturbances of the buffer have the potential to impact the water quality protection functions of the buffer.
- Existing structures may remain and vegetation may be removed from the RPA (with County approval) to provide for reasonable sight lines, access paths, woodlot management, and shoreline erosion control.



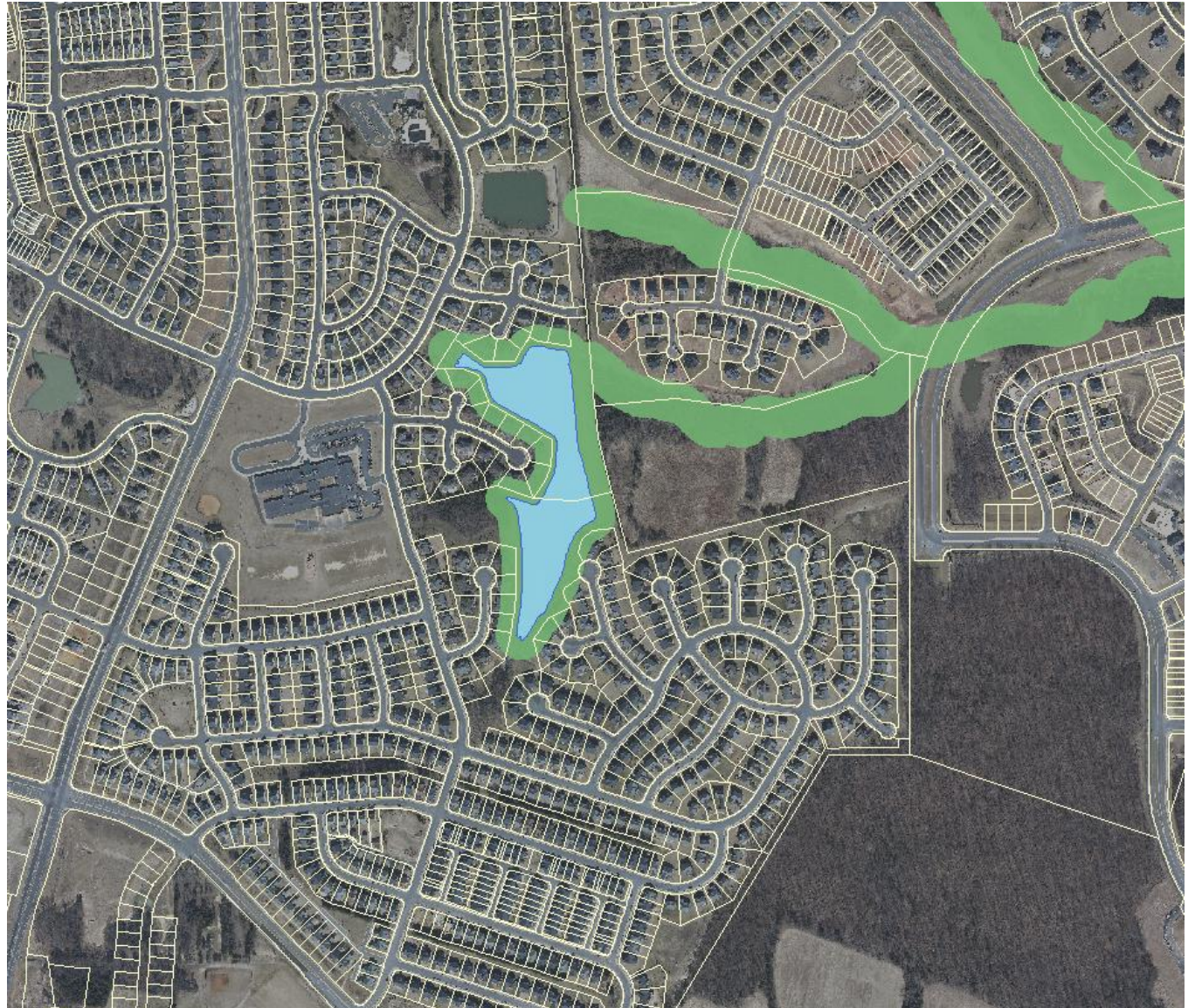
Performance Criteria

Performance Criteria applicable within the RPA/RMA:

1. SWM/BMP maintenance*
2. 2,500 sf Plan of Development
3. 2,500 sf E&S Threshold
4. 5-year septic pump-out
5. 100% Reserve Drainfield
6. Stormwater Management (Chapter 1096)*
7. State and Federal Wetland Permits*
8. Minimize Land Disturbance
9. Preserve Indigenous Vegetation
10. Minimize Impervious Cover

(* already in place)

CBPA Map





CBPA Map

- The CBPA map depicts the general extent of the RPA and is used to evaluate projects of 2,500 sf or less.
- A Locational Clearance is reviewed at the time of the Zoning Permit application (similar to Steep Slopes, MDOD, and LOD) to evaluate compliance with the RPA requirements.
- The ordinance includes 1) administrative waivers for minor additions 2,500 sf or less in the landward 50-feet of the RPA or for the loss of a buildable area and 2) RPA exceptions.



CBPA Map

- Based on the current CBPA map, approximately:
 - 8 percent of the land and 10 percent of the parcels in the County contain RPA.
 - 40 percent of the land within the RPA also lies within the Major Floodplain.
 - 2 percent of existing structures with a street address fall within the RPA.
 - 3.5 percent of structures with a street address fall within the RPA and the first 25-feet adjacent to the RPA.



CBPA Map

- Staff estimates that the CBPA map captures approximately 2/3 of the perennial streams in the County.
- The other 1/3 of perennial streams will be identified through RPA delineations required for projects that disturb >2,500 sf.
- Connected wetlands will also be identified through RPA delineations.

RPA Screening Tool





RPA Screening Tool

- **The RPA Screening Tool:**

- Depicts areas within 200 feet of all streams and water bodies as identified by base map drains (derived from aerial photography).
- Encompasses approximately 50 percent of the land area in the County.
- Used for projects that disturb >2,500 sf.



RPA Screening Tool

- Staff estimates that only 20% of the area included in the RPA Screening Tool will be required to perform an RPA delineation, due to the fact that most of the streams identified are ephemeral and intermittent.
- If an RPA delineation is required after review of the RPA Screening Tool and property conditions, the delineation may result in defining additional areas of RPA.
- Properties located outside of the shaded areas on the RPA Screening Tool are not required to perform an RPA delineation regardless of the size of the project, except in conjunction with a land development application (e.g., site plan or construction plan).



Resource Protection Area (RPA)

- **Administrative Waivers:**

- New dwellings are permitted in the RPA by administrative waiver on legally existing lots of record where application of the buffer would result in the loss of a reasonable buildable area.
- Decks and additions up to 2,500 square feet in the landward 50 feet of the RPA are also permitted by administrative waiver.



Resource Protection Area (RPA)

- **Exceptions:**

- Detached accessory structures (e.g., garages, sheds, gazebos, patios, pools) are permitted in the RPA by exception.
- Exceptions are reviewed at a public hearing by the Chesapeake Bay Review Board, appointed by the Board of Supervisors, based upon a series of findings outlined in the Chesapeake Bay Preservation Ordinance.



Resource Protection Area (RPA)

- **Waiver/Exception Applications:**

- The applicant may request that staff perform the RPA delineation where land disturbing activity of 2,500 sf or less is proposed in the landward 50 feet of the RPA. All other required application materials can be prepared and submitted by the applicant without assistance from a consultant or engineer.
- A consultant RPA delineation and Tree Cover Inventory and an engineered plan are required where land disturbing activity over 2,500 sf is proposed within the RPA or where disturbance is proposed within the seaward 50-feet of the RPA.



Agricultural Requirements

- Cropland may encroach up to 75 feet into the buffer with implementation of erosion control, nutrient management, and pest management Best Management Practices (BMPs), as determined by the Soil and Water Conservation District (SWCD).
- Grazing is permitted within the buffer as long as permanent vegetative cover is maintained (e.g., 90% vegetative cover, equally distributed, and established to a minimum height of 2 inches).



Agricultural Requirements

- In the event that permanent vegetative cover cannot be maintained in pastures, grazing land BMPs such as rotational grazing, fencing, and alternative water systems may be required.
- Where fencing is determined to be the appropriate BMP, it must be established a minimum of 25 feet from the stream.
- Watering trough systems and hardened accesses/crossings can be implemented to provide livestock access to water.
- Required BMPs will be determined by the SWCD in consultation with the property owner.



Next Steps

- Following the public hearing, staff will post Frequently Asked Questions and responses on the Chesapeake Bay website and prepare an issues matrix to facilitate the Board's review.
- Staff recommends hosting an additional HOA Outreach Session to provide information regarding the draft amendments.
- The Board will discuss and outline a schedule for reviewing the draft amendments.



Additional Information

- Additional information is available:
 - on the Chesapeake Bay website at www.loudoun.gov/chesapeakebay
 - by calling the Chesapeake Bay Hotline at (703) 777-0655
 - by e-mailing ChesBay@loudoun.gov.

